

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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VORCOM INTERNET SERVICES,  
INC.,

Plaintiff,

v.

L&H ENGINEERING & DESIGN LLC and LG  
ENGINEERING & DESIGN, INC.

Defendants.  
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**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

12 CV 2049 (VB)

Briccetti, J.:

Before the Court is Magistrate Judge Lisa M. Smith's Report and Recommendation ("R&R"), dated December 11, 2013, on plaintiff's renewed sanctions motion (Doc. #72),<sup>1</sup> which seeks: (i) the entry of a judgment for monetary sanctions against LG and non-party James P. LeDonne ("LeDonne")<sup>2</sup> in the amount of plaintiff's attorneys' fees and costs incurred in seeking to take LeDonne's deposition, (ii) the issuance of an order precluding LeDonne from offering any testimony during motion practice or trial on behalf of LG, and (iii) the entry of a default judgment against defendant LG Engineering & Design, LLC ("LG").

Judge Smith issued an Order granting plaintiff's motion for monetary sanctions against LG and LeDonne, and precluding LeDonne from offering any testimony during motion practice or trial on behalf of LG. (See Doc. #74).

By R&R, Judge Smith recommended that the Court grant plaintiff's request for entry of a default judgment against LG, and also recommended that the Court sua sponte enter a default

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<sup>1</sup> Plaintiff's motion was submitted in accordance with Judge Smith's Order dated October 2, 2013 (Doc. #70).

<sup>2</sup> As set forth in Judge Smith's Order and R&R, LeDonne was originally named as a defendant but was dismissed from the case. (See Doc. #26).

judgment against defendant L&H Engineering & Design LLC (“L&H”); L&H has never appeared in the action.

The Court presumes familiarity with the factual and procedural background of this case.

For the following reasons, the Court adopts the R&R as the opinion of the Court, grants plaintiff’s request for entry of a default judgment against LG, sua sponte enters a default judgment against L&H, and refers this matter back to Judge Smith for an inquest after default.

A district court reviewing a magistrate judge’s report and recommendation “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Parties may raise objections to the magistrate judge’s report and recommendation, but they must be “specific[,] written,” and submitted within 14 days after being served with a copy of the recommended disposition. Fed. R. Civ. P. 72(b)(2); 28 U.S.C. § 636(b)(1).

Insofar as a report and recommendation deals with a dispositive motion, a district court must conduct a de novo review of those portions of the report or specified proposed findings or recommendations to which timely objections are made. 28 U.S.C. § 636(b)(1)(C). The district court may adopt those portions of a report and recommendation to which no timely objections have been made, provided no clear error is apparent from the face of the record. Lewis v. Zon, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008); Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985). The clearly erroneous standard also applies when a party makes only conclusory or general objections, or simply reiterates his original arguments. Ortiz v. Barkley, 558 F. Supp. 2d 444, 451 (S.D.N.Y. 2008).

None of the parties have objected to Judge Smith’s thorough and well-reasoned decision.

The Court has carefully reviewed the R&R and finds no error, clear or otherwise.

**CONCLUSION**

Accordingly, the R&R is adopted in its entirety as the opinion of the Court.

Plaintiff's request for entry of a default judgment against LG is GRANTED. (Doc. #72).

A default judgment is sua sponte entered against L&H.

The Clerk is instructed to enter the judgments accordingly.

This case is referred to Judge Smith for an inquest after default.

Dated: January 10, 2014  
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent Briccetti', written over a horizontal line.

Vincent L. Briccetti  
United States District Judge